

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON FINANCE AND CLAIMS**

**Call to Order:** By **CHAIRMAN CHUCK SWYSGOOD**, on April 8, 1999 at 7:05 A.M., in Room 108 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Chuck Swysgood, Chairman (R)  
Sen. Tom Keating, Vice Chairman (R)  
Sen. Tom A. Beck (R)  
Sen. Chris Christiaens (D)  
Sen. William Crismore (R)  
Sen. Eve Franklin (D)  
Sen. Greg Jergeson (D)  
Sen. Bob Keenan (R)  
Sen. J.D. Lynch (D)  
Sen. Dale Mahlum (R)  
Sen. Ken Mesaros (R)  
Sen. Ken Miller (R)  
Sen. Arnie Mohl (R)  
Sen. Linda Nelson (D)  
Sen. Debbie Shea (D)  
Sen. Mike Taylor (R)  
Sen. Daryl Toews (R)  
Sen. Mignon Waterman (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Shannon Gleason, Committee Secretary  
Clayton Schenck, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 135, HB 313, HB 79, HB 389,  
HB 660, SB 534, 4/19/1999  
Executive Action: HB 260, HB 660, SB 534, HB 389

HEARING ON HB 135

Sponsor: REP. JAY STOVALL, HD 16, BILLINGS

Proponents: Joe Mazurek, Attorney General  
Craig Reap, Montana Highway Patrol  
Mike Petista, Criminal Investigations  
Jim Oppendahl, Department of Justice  
Tom Schneider, Montana Public Employees  
Association  
John McEwan, State Personal Division  
Mike Crowley, Montana Highway Patrol Association  
Tom Harrison, Montana Highway Patrol Association  
Silkitwa Ferrel, Montana Highway Patrol

Opponents: None

Opening Statement by Sponsor:

REP. STOVALL stated this bill contained an increase of nine percent for Montana Highway Patrol officers. Patrol officers were still below the average of law enforcement salaries even with this increase.

Proponents' Testimony:

Joe Mazurek, Attorney General, advised several experienced officers had left the patrol because of salary issues. Mr. Mazurek felt several experienced officers were waiting to see what would happen with this bill before they made a decision to stay. Mr. Mazurek stated the Criminal Investigation Department was also having problems retaining employees. Mr. Mazurek indicated officers were being lured from the patrol by other agencies with higher salaries. This was causing the patrol to lose experience, and threatened the safety of the officers.

Craig Reap, Montana Highway Patrol, read EXHIBIT(fcs76a01) and handed out EXHIBIT(fcs76a02).

Mike Petista, Criminal Investigation Division, stated the employees in the division were on call 24 hours a day, and covered all 56 counties. Mr. Petista was concerned about the department being forced to hire and train new employees. The preferred to hire experienced individuals from Montana agencies. Mr. Petista advised the Fraud Division saved the state over \$13,000,000.00 per year.

**Jim Oppendahl**, Department of Justice, stated the gambling Control Division was also losing employees to other agencies. **Mr. Oppendahl** felt it was important to be able to recruit and retain employees, and the pay increase was needed.

**Tom Schneider**, Montana Public Employees Association, explained this bill was a result of a study commissioned by the previous legislature, and although he did not feel the increase was enough, it was the best solution acceptable.

**John McEwan**, State Personal Division, read **EXHIBIT(fcs76a03).{Tape : 1; Side : A; Approx. Time Counter : 7:20}**

**Mike Crowley**, Montana Highway Patrol Association, agreed that the patrol was losing experienced and valuable employees. Montana Highway Patrol officers ranked near, or at the bottom, of the 50 state officer pay ranking.

**Tom Harrison**, Montana Highway Patrol Association, felt this bill was a fairness issue. The patrol officers were professions who represented the state.

**Silkitwa Ferrel**, Montana Highway Patrol, read **EXHIBIT(fcs76a04)**.

**Questions from Committee Members and Responses:**

**SEN. KEATING** asked what the ratio was to the General Fund and the State Special Revenue, specifically if the General Fund was necessary to match the State Special Revenue. **Mr. Mazurek** advised the patrol was funded by the State Special Revenue, but the Criminal Gambling Investigation Division was funded through the General Fund.

**SEN. KEATING** wanted to know the source of the State Special Revenue Funds, and where the Federal money came from. **Mr. Mazurek** advised it was highway funding, gas tax, and gaming fees. The Federal funds were for Medicaid fraud investigations.

**Closing by Sponsor:**

**REP. STOVALL** stated it was important to have experienced officers for public safety.

**HEARING ON HB 313**

**Sponsor:** **REP. BOB RANEY, HD 26, LIVINGSTON**

**Proponents:**     **Michelle Lee**  
                          **Perry Hofferber**  
                          **Wendy Young,**     Working for Equality and Economic  
                                                                                  Liberation (**WEEL**)  
                          **Carson Strege,**     Montana People Action  
                          **Don Judge,**             Montana State AFL-CIO

**Opponents:**     **Hank Hudson,**     Department of Public Health and  
                                                                                  Human Services     (**DPHHS**)  
                          **Mary Ann Wellbank,**     DPHHS

**Opening Statement by Sponsor:**

**REP. RANEY** advised this bill was a child support assurance measure. **REP. RANEY** agreed this was a new concept and would work despite what **DPHHS** stated. **REP. RANEY** felt the Federal government would allow, and support the pilot program. **REP. RANEY** handed out a letter, **EXHIBIT(fcs76a05)**. There were three items required to be considered for the program: a court order for child support, current employment, and not receiving welfare.

**Proponents' Testimony:**

**Kate Choleau,** Montana Woman's Lobby, passed out **EXHIBIT(fcs76a06)**, a packet of information on the project. **Ms. Choleau** explained the concept of using Temporary Assistance for Needy Families (**TANF**) and Maintenance of Effort (**MOE**) funds. This would be a pilot program involving 400 families. **Ms. Choleau** read pages one and two from the packet. The **TANF** Block Grant money has not be fully spent over the last few years and would be reduced in two years. **Ms. Choleau** felt the Fiscal Note was inflated and overstated. {Tape : 1; Side : B; Approx. Time Counter : 0}

**Michelle Lee** rose in support of the bill. **Ms. Lee** explained other states have saved money with this program. **Ms. Lee** advised she had called Washington D.C., and they had assured her the state would still be eligible for **TANF** money using this program. **Ms. Lee** read the Fiscal Note and handed out **EXHIBIT(fcs76a07)**, a letter from the **DPHHS** showing the discrepancies in figures.

**Wendy Young,** **WEEL**, read **EXHIBIT(fcs76a08)** and passed out **EXHIBIT(fcs76a09)**, a letter from a client.

**Perry Hofferber** rose in support of the bill, and stated single fathers need help collecting support, and this bill would also benefit them.

**Carson Strege**, Montana's People Action, rose in support of the bill.

**Don Judge**, AFL-CIO, explained people on welfare rolls are not treated like regular people because the system does not allow it. **Mr. Judge** believed this program would begin to change that.

**Opponents' Testimony:**

**Hank Hudson**, DPHHS, advised the department had opposed the bill since last summer, and passed out **EXHIBIT(fcs76a10)**, the department's concerns. The department felt this would erode the welfare reforms made to date. **Mr. Hudson** advised there was no time limit on the system, it reduced the work requirement, provided benefits for parents who are separated or where never married, and redefines the **TANF** program. **Mr. Hudson** disagreed with the letter from the Federal Government, and believed the program would endanger the state receiving **TANF** money. *{Tape : 1; Side : B; Approx. Time Counter : 8:13}*

**Mary Ann Wellbank**, DPHHS, read **EXHIBIT(fcs76a11)** and offered **EXHIBIT(fcs76a12)**, proposed amendments.

**Questions from Committee Members and Responses:**

**SEN. LYNCH** wanted to know how the current program prevented out-of-wedlock pregnancy. **Mr. Hudson** stated if a teen parent became pregnant they had to live with a responsible parent to receive checks. **Mr. Hudson** felt that policy did reduce teenage pregnancy.

**SEN. LYNCH** wanted to know about the other states using the program. **Kate Choleau** advised New York has had a program similar to this for six years, and they have saved \$10.00 for every \$1.00 spent. Virginia established a program, however when the administration changed the project was abandoned.

**SEN. CHRISTIAENS** asked about the funding from **HB 2**. **Mr. Hudson** explained the department had already created programs to spend the Federal Block Grant money that was unspent. If this program was allowed the funding would have to be allocated because the other funds have been approved for other projects. **SEN.**

**CHRISTIAENS** stated the department could move the funds around if it needed. **Mr. Hudson** agreed.

**SEN. KEATING** asked if the state absorbed the difference between court ordered support under \$200.00, and the \$200.00 payment.

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**Vernon Bertleson**, Retired Teacher  
**SEN. SUE BARTLETT, SD 27, HELENA**

**Opening Statement by Sponsor:**

**REP. BRAINARD** read **EXHIBIT(fcs76a13)**, and passed out **EXHIBIT(fcs76a14)**, **EXHIBIT(fcs76a15)**, and **EXHIBIT(fcs76a16)**

**Proponents' Testimony:**

**Mike O'Connor**, PERS, stated this plan was the result of hundreds of hours of research, meetings, and hearing, **PERS** takes the plan seriously and would be responsible for the administration of the plan.

**Tom Schneider**, MPEA, read **EXHIBIT(fcs76a17)**. **Mr. Schneider** asked to have Section 59, the loan provision, removed. **{Tape : 2; Side : A; Approx. Time Counter : 9:17}**

**John McEwen**, Department of Administration, read **EXHIBIT(fcs76a18)**.

**Glen Leavitt**, University System, felt 20% of eligible employees would elect the new retirement system, however all classified employees would be better educated about their benefits.

**Candice Payne**, University Teachers Union, stated the teachers have this system, and felt classified staff should be able to participate in the program. **REP. DOUG MOOD, HD 58, SEELEY LAKE** supported the bill.

**Willie McCarthy**, University of Montana, rose in support of the bill.

**John Wing**, VALIC Retirement Services, rose in support of the bill. **Mr. Wing** felt employees would be able to wisely choose their retirement.

**Opponents' Testimony:**

**Tom Bilodeau**, MEA read **EXHIBIT(fcs76a19)**. **{Tape : 2; Side : B; Approx. Time Counter : 9:20}**

**Darrell Holser**, State AFL-CIO, felt this would put stars in people's eyes, and they were concerned with the lack of disability coverage.

**Vernon Bertelsen**, retired teacher, felt this was an invitation to disaster.

**SEN. SUE BARTLETT** did not consider herself an opponent to the bill, but was concerned with the loan provision, and lack of disability insurance. **SEN. BARTLETT** was concerned that two legs of retirement for the employees would be subject to the market. **SEN. BARTLETT** spoke at length about the subcommittee hearings.

**Questions from Committee Members and Responses:**

**SEN. BECK** pointed out the borrowing portion was tied to prime rate, and wanted to know what happened to the long term interest. **REP. BRAINARD** advised the employee would be borrowing from themselves, therefore it would be lost. **SEN. BECK** thought people should use the account for collateral instead of withdrawing the money. **REP. BRAINARD** advised the account could not be used like that because of Federal law.

**SEN. LYNCH** wondered why there was no disability insurance in the program. **REP. BRAINARD** stated the committee was trying to allow flexibility, and the number of individuals involved would not make it cost effective. The Department of Administration was trying to separate out disability for all state employees. If that were to happen the pool would be large enough to provide low cost coverage.

**SEN. LYNCH** stated that was fine for next session, but this bill allowed people to go uncovered. He was very concerned about that. **REP. BRAINARD** disagreed.

**SEN. MAHLUM** agreed with the plan, but felt Section 59 did not require people to live within their means.

**SEN. CHRISTIAENS** asked if research showed the number of people, and the cost of borrowing from the plan. **REP. BRAINARD** advised there was very little information, but referred to **REP. MOOD's** employees' plan. He stated there was no abuse by them.

**SEN. CHRISTIAENS** asked why the House changed the vesting. **REP. BRAINARD** felt the person should be vested immediately because the retirement system was part of a compensation plan. **REP. BRAINARD** explain the amendments were requested by the Department of Administration to bring the current compensation system in-line with the other retirement system.

**SEN. TAYLOR** asked how many hours it took to develop the plan. **REP. BRAINARD** states hundreds.



**SEN. TAYLOR** asked **Bob Frazier** to explain the loan provision. **Mr. Frazier**, University System, explained their plan had a loan provision attached, and the faculty had not abused the program. The university system had immediate vesting, and disability insurance was offered by a private carrier.

**SEN. TAYLOR** asked **Tom Bilodeau**, MEA, if he ever supported the plan, and how this would affect teacher's retirement. **Mr. Bilodeau** stated he never has supported the plan, and there was no direct impact to the teachers. He believed this would be a prototype for other plans.

**SEN. WATERMAN** wanted to know what type of plan education was available to the faculty, and the turnover rate. **Mr. Frazier** advised they contracted with a private company to administer and educate people in the plan. **Mr. Frazier** stated they have had a five percent turnover.

**SEN. BECK** asked what the vesting was for the university plan. **Mr. Frazier** advised they were vested immediately.

**CHAIRMAN SWYSGOOD** asked about the General Fund impact, and stated the loan would have an impact because it reduced interest the fund receives. **CHAIRMAN SWYSGOOD** asked why the money was not borrowed from the plan to implement the program. **REP. BRAINARD** explained Federal law prohibited borrowing from the plan. **REP. BRAINARD** felt this was a good investment, and pointed out the money would be paid back.

**Closing by Sponsor:**

**REP. BRAINARD** did not believe this plan would effect other plans. The department would not be back requesting loan provisions, and shorted vesting in the other plans. **REP. BRAINARD** felt the tax penalty would deter people from taking money out of the plan. **REP. BRAINARD** thought this plan would cater to the transitional employee. *{Tape : 3; Side : A; Approx. Time Counter : 10:15}*

The committee took a break until 10:15

**HEARING ON HB 389**

**Sponsor:** **REP. BOB DAVIES, HD 27, BOZEMAN**

**Proponents:** **Gary Marbut,** Montana Shooting Association  
**Pat Graham,** Department of Fish, Wildlife, and  
Parks **(DPFWP)**

**Opponents:** None

**Opening Statement by Sponsor:**

**REP. DAVIES** advised this bill would provide funding for additional shooting ranges, and add the funding to statute. The additional shooting ranges are designed to provide a facility for people sighting in guns, and gaining experience with a firearm.

**REP. DAVIES** felt this may help improve safety to people and animals. The original funding was going to be through auctioning big game tags, or adding \$1.00 per hunting tag. Neither of those ideas were acceptable. **REP. DAVIES** passed out the proposed amendments **EXHIBIT(fcs76a20)**, and asked to have the words "in addition to the appropriation in **HB2**" deleted.

**Proponents' Testimony:**

**Gary Marbut**, Montana Shooting Association, read a list of associations supporting the bill. **Mr. Marbut** estimated 90% of households in the state owned firearms, and felt shooting ranges would reduce accidents. **Mr. Marbut** was surprised by the amendments, and he felt number five reduced the allocated money. **Mr. Marbut** felt there should be more money allocated because the money appropriated was spent right away, and this would become a user pay program.

**Pat Graham**, DFWP, read **EXHIBIT(fcs76a21)**. {Tape : 3; Side : A; Approx. Time Counter : 10:35}

**Questions from Committee Members and Responses:**

**SEN. TAYLOR** asked where the facilities were being built. **Mr. Marbut** did not know where the facilities would be located. The department had an application process, and had received over \$50,000.00 in requests.

**SEN. TAYLOR** wanted to know if the fee increases were being considered in another bill. **Mr. Graham** stated all the fee increases have been killed.

**Closing by Sponsor:**

**REP. DAVIES** felt this was a needed program.

**HEARING ON HB 660**

**Sponsor:** REP. RED MENAHAN, HD 57, ANACONDA

**Proponents:** Terry Minow, Montana Federation of Teachers and  
State Employees  
Debra Dirkson, Department of Public Health and  
Human Services (DPHHS)  
Don Judge, Montana AFL-CIO

**Opponents:** None

**Opening Statement by Sponsor:**

REP. MENAHAN passed out the amendment, **EXHIBIT(fcs76a22)**. There were \$3,000,000.00 of appropriations added in the House. Someone also had mistakenly added \$1,000,000.00, instead of \$1.00. This bill allowed the state hospital employees effected by the downsizing to be paid severance pay. This was negotiated at the time the decision was made to build a new facility.

**Proponents' Testimony:**

Terry Minow, Montanan Federation of Teachers and State Employees, read **EXHIBIT(fcs76a23)**.

Debra Dirkson, DPHHS, rose in support of the bill. There are currently 428 employees at the hospital. The staff reduction would be 100 people. The average tenure was 14 years, so the severance packages were for people who had dedicated years to the state. The department's budget did not provide for the severance packages.

Don Judge, Montana AFL-CIO, supported **HB 660**.

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

REP. MENAHAN explained some jobs were being eliminated, while some were retiring. This bill covered both.

**HEARING ON HB 260**

**Sponsor:** REP. DOUG MOOD, HD 58, SEELEY LAKE

**Proponents:** Peter Blouke, Department of Commerce  
REP. BOB PAVLOVICH, HD 37, BUTTE  
Dick Crofts, Commissioner of Higher Education

**Ralph Peck**, Department of Agriculture  
**Mike Malone**, Montana State University  
**John Youngberg**, Montana Farm Bureau  
**Candice Payne**, Women Involved in Farm Economics  
(WIFE)  
**Ken Maki**, Montana Farmers Union  
**Bob Stephens**, Montana Grain Growers Association  
**Hal Stearns**, University of Montana  
**Jim Davidson**, Montana Economic Development  
Association  
**Jim Smitham**, Montana Ambassadors  
**Evan Barrett**, Montana Economic Development  
**Gloria Paladicheck**, Richland Economic Development

**Opponents:** **Verner Bertelson**, Montana Senior Citizens  
Association  
**Don Judge**, Montana AFL-CIO  
**REP. BOB RANEY, HD 26, LIVINGSTON**  
**REP. HAL HARPER, HD 52, HELENA**  
**SEN. GREG JERGESON, SD 46, CHINOOK**  
**SEN. MACK COLE, SD 4, HYSHAM**  
**Don Hoffman**, Department of Revenue

**Opening Statement by Sponsor:**

**REP. MOOD** stated this bill appropriates \$9,900,000.00 per year to match **epscone** grants. The money would be appropriated annually by a council, and the emphasis was on improving jobs and income for the state. The grants would be used for research and agriculture. The financing was originally tied to **HB 2** because the General Fund would not support the appropriation. **REP. MOOD** handed out **EXHIBIT(fcs76a24)**, **EXHIBIT(fcs76a25)**, **EXHIBIT(fcs76a26)**, and **EXHIBIT(fcs76a27)**. There were charts containing the same information that **REP. MOOD** explained to the committee. {Tape : 3; Side : B; Approx. Time Counter : 11:00}  
**REP. MOOD** handed out **EXHIBIT(fcs76a28)** and **EXHIBIT(fcs76a29)**. These were proposed amendments to the bill.

**Proponents' Testimony:**

**Peter Blouke**, Department of Commerce, stated funding for the Growth through Agriculture Program and the Regional Water System in **SB 220** were contained in the amendments. **Mr. Blouke** handed out **EXHIBIT(fcs76a30)**, and thought jobs improving the infrastructure in the state, and counteracting the rapid expansion of the aging population were needed. **Mr. Blouke** felt

younger people with families would relocate in the state if job opportunities were developed.

**REP. BOB PALVOVICH** rose in support of the bill. **REP. PALVOVICH** thought the permanent trust money should be used to develop a solution to the problems with the open pit in Butte.

**Dick Crofts**, Commissioner of Higher Education, advised research and development was critical for the survival of the state. **Mr. Crofts** supported this bill.

**Ralph Peck**, Department of Agriculture, rose in support of the bill, and stated recommendations from the 2005 task force were incorporated in the bill.

**Mike Malone**, Montana State University, stated the Bozeman campus completed 60% of the research done by the university system. Last year over \$52,000,000.00 worth of research was done. Most of the funding was Federal, and the money in this bill would allow the required match for the **epscone** grants.

**John Youngberg**, Montana Farmers Bureau, felt this would provide a long term permanent solution to research. **Mr. Youngberg** cited several examples of the research being performed at the universities.

**Candice Payne**, WIFE, supported the bill. **Ms. Payne** felt if Montana was to maintain a future in agriculture this was needed.

**Ken Maki**, Montana Farmers Union, stated in the past the union supported using the interest. There are tough issue to address, and the state needs to do something to get back on track.

**Bob Stephens**, Montana Grain Growers Association, rose in support of the bill.

**Jim Davidson**, Montana Economic Development, rose in support of the bill.

**Hal Stearns**, University of Montana, rose in support of the bill. **Mr. Stearns** explained he attended a school reunion last summer, and the majority of the people were employed put of the state. The people wanted to live in Montana, it was not economically feasible.

**Jim Smitham**, Montana Ambassadors, advised economic development was a long term investment, and felt this was a good investment for the trust money.

**Evan Barrett**, Montana Economic Development, liked the research funding contained in this bill. The money would also fund agriculture research. **Mr. Barrett** stated the bill funds research and development, the jobs and income development, rural water systems, TSEP, and expands the capacities of the Coal tax Trust bonding.

**Gloria Paldicheck**, Richland Economic Development, stated the vehicle was important, not which one. The counties needed research money, water projects, and economic development. **Ms. Paladicheck** advised the coal tax money was largely gathered from Eastern counties, and those counties should be a part of the future development. *{Tape : 3; Side : B; Approx. Time Counter : 11:20}*

**Opponents' Testimony:**

**Verner Bertelsen**, Montana Senior Citizen Association, read **EXHIBIT** (fcs76a31).

**Don Judge**, AFL-CIO, advised he supported development in the state, however he could not support the funding source. **Mr. Judge** felt the changes in agriculture would not be corrected by research, they were a result of changing times and automation. *{Tape : 4; Side : A; Approx. Time Counter : 11:30}*

**REP. BOB RANEY**, stated this was not a good solution, and the Department of Commerce was being rewarded for not doing a good job. **REP. RANEY** referred to page 13 of the bill, and reviewed the board set-up and responsibilities. **REP. RANEY** felt the new money being added to the General Fund through utility taxes should be prioritized and used instead of the trust.

**REP. HAL HARPER**, supported the concept of the bill but this scheme for funding and reimbursement was wrong. **REP. HARPER** advised the Coal Trust has been constitutionally established, and he believed this use was unconstitutional. **REP. HARPER** advised this had been tried in the with past the Canola Plant in Great Falls. **REP. HARPER** urged the committee to support the idea of the bill, and change the funding.

**SEN. GREG JERGESON**, explained he supported the end, but could not support the means. **SEN. JERGESON** handed out **EXHIBIT** (fcs76a32) and reviewed his concerns. **SEN. JERGESON** felt this would be challenged in court and it was unconstitutional.

**SEN. MACK COLE** stated if the legislature wanted to stimulate the economy, the coal tax should be lowered. **SEN. COLE** reviewed the

tax discrepancies between Montana and Wyoming, and felt there would be a problem selling Montana coal when the Tongue River Railroad was built.

**Informational Testimony:**

**Don Hoffman**, Department of Revenue, supported the amendments in exhibit 28.

**Questions from Committee Members and Responses:**

**SEN. MOHL** stated when **Mr. Blouke** opened his statement he said this was a Jobs and Income measure. There has been a jobs and income program for 15 years and **SEN. MOHL** wanted to know how this was different. **Mr. Blouke** felt the past programs never had the resources to aggressively recruit and assist businesses. **Mr. Blouke** advised this was not corporate welfare, and this money would help smaller Montana businesses.

**SEN. MAHLUM** stated this bill added another layer of bureaucracy and the Department of Commerce should be able to do this. **Mr. Blouke** stated the purpose of the board was to review research grant requests to insure the relationship between them, and improving Montana's economy. **SEN. MAHLUM** thought the department should have someone who could do that now. **Mr. Blouke** felt there needed to be outside review.

**SEN. WATERMAN** wanted clarification for the funding of the board. **Mr. Blouke** advised the funding would come from allocation of research. **SEN. WATERMAN** stated she understood the wording to mean funds can only be spent on loans for matching grants.

**SEN. WATERMAN** wanted to know how the grants were reviewed now. **Dick Crofts**, Commissioner of Higher Education, advised it was a peer review, and they were required to have some relevance to economic development for Montana. **SEN. WATERMAN** stated this was a second review.

**SEN. WATERMAN** advised the original review board was going to review the entire process and wanted to know why that board had their duties reduced. **REP. MOOD** advised it was because the House killed the Jobs and Income Commission. **REP. MOOD** felt it was better to have citizens review the grants. **SEN. WATERMAN** pointed out there would be three levels of review. **REP. MOOD** felt there would be more than that because the Federal government would also review the grants.

**SEN. TOEWS** asked to postpone action on the bill until he could research the impact to the General Fund under **SEN. JERGESON's** proposal. {Tape : 4; Side : A; Approx. Time Counter : 12:00}

**Closing by Sponsor:**

**REP. MOOD** advised the process had been slowed to a crawl and it was frustrating. **REP. MOOD** disagreed with **SEN. JERGESON'S** concerns. **Greg Petesch**, Legislative Legal Division, had reviewed the legality of the bill, and did not feel it was unconstitutional. **REP. MOOD** felt the present system of lending to the university system was wrong, and should be corrected. **REP. MOOD** did not feel there was any better use for the trust money than the development of Montana. If there was not investment in the state there would be nothing left to worry about. **REP. MOOD** felt the citizen board was important because it contained people outside of the system.

The committee recessed until 4:33

**HEARING ON HB 534**

**Sponsor:** **SEN. BOB KEENAN, SD 38, BIGFORK**

**Proponents:** **Mona Jamison,** Shodair Hospital  
**Donald Harr,** Montana Psychiatric and Mental  
Health Association (**MPMHA**)  
**Bob Olsen,** Mental Health Association (**MHA**)  
**Kip Smith,** Montana Primary Care Association  
**Andrea Merrill,** Mental Health Association  
**Dan Anderson,** Department of Public Health and  
Human Services  
**Craig Littlefield,** Children's Comprehensive  
Service (**CCS**)  
**Art Noonan,** Aware Inc.  
**Kathy McGowen,** Montana Association of Mental  
Health Centers

**Opponents:**

**Opening Statement by Sponsor:**

**SEN. KEENAN** handed out **grey bill #4 EXHIBIT(fcs76a33)**, and read **EXHIBIT(fcs76a34)**, the changes in the bill.

**Proponents' Testimony:**



**Mona Jamison**, Shodair Hospital, supported the bill, but requested an amendment to allow the use of impatient beds for children at Shodair Hospital and CCS. **Ms. Jamison** advised without the amendment children would be forced to go to Billings Deaconess, no matter how far away they lived. **Ms. Jamison** explained CCS and Shodair had expanded their beds and are currently providing services. *{Tape : 4; Side : B; Approx. Time Counter : 00}*

**Don Harr**, MCMHA, rose in support of the bill with the amendments by **SEN. KEENAN**.

**Bob Olsen**, MHA, rose in support of the bill and pledged ongoing support while in the transition.

**Kip Smith**, Montana Primary Care Association, rose in support of the bill and the amendments.

**Andrea Merrill**, MHA, advised the committee they did the right thing, and as a result of this process Montanans were informed. **Ms. Merrill** felt there should be more funding for the program or services would have to be reduced.

**Dan Anderson**, DPHHS, advised the department supported the bill, and felt it established the appropriate guard rails.

**Craig Littlefield**, CCS, supported the bill with the amendments offered by **Ms. Jamison**.

**Art Noonan**, Aware Inc., agreed the future was uncertain, and everyone needed to join together to move forward.

**Kathy McGowen**, Montana Association of Mental Health Centers, rose in support of the bill.

**Questions from Committee Members and Responses:**

**SEN. FRANKLIN** wanted clarification of the Federal requirements for actuary soundness. **Frank Cote**, Deputy Insurance Commissioner, advised the committee they would be requesting a Fiscal Note asking for two FTE to oversee the next managed care provider. **Mr. Cote** believed the FTE would be needed because of the wording in the bill, and the requirements of the department.

**SEN. TOEWS** was concerned with all the "may" wording in the bill. **Greg Petesch** advised the bill was drafted to give legislative directive for the transition. **CHAIRMAN SWYSGOOD** stated the department needed to be flexible to allow services to continue through the transition period.

**SEN. CHRISTIAENS** was concerned that the bill may give someone the idea it was okay to return to fee for service and wanted clarification. **SEN. KEENAN** advised **SEN. WATERMAN** had an amendment to address those concerns, and stated the department has been advised that was not the intent.

**CHAIRMAN SWYSGOOD** stated **Mr. Petesch** felt this would allow the Auditor's Department to adopt rules allowing the Commissioner to only explore the financial soundness of a company. **Mr. Petesch** cited Title 53, chapter 7. **Mr. Cote** did not interpret the code that way. The committee stated the legislative intent was that the Auditor review the financial soundness of a proposed managed care company, not regulate them.

**SEN. FRANKLIN** wanted clarification of the ombudsman and auditor's role. **SEN. LYNCH** agreed.

**Closing by Sponsor:**

**SEN. KEENAN** closed.

**CHAIRMAN SWYSGOOD** stated he was sure everyone who testified, and the committee had concerns with the transition in the interim. This was the best solution in **CHAIRMAN SWYSGOOD's** mind.

**EXECUTIVE ACTION ON SB 534**

**Motion/Vote:** **SEN. LYNCH** moved **SB 534 AS AMENDED BY THE SUBCOMMITTEE** BE ADOPTED. Motion carried unanimously.

**Motion:** **SEN. LYNCH** moved that **SB053414.ASF EXHIBIT(fcs76a35)** BE ADOPTED.

**Discussion:**

**SEN. CHRISTIAENS** reviewed the history of the additional beds. If the amendment was not adopted the two inpatient hospitals would be left out of the system, and the only in-state hospital would be Deaconess. **SEN. WATERMAN** thought the word shall should be replaced by may. **SEN. CHRISTIAENS** stated he wanted the wording because he understood the department did not intend to use the beds. **SEN. KEATING** asked for the department to comment on that statement. **DAN ANDERSON**, DPHHS, advised the department already had the authority to include the services. The department did not intend to include it because they were going back to the services provided prior to the contract with Magellan. **Mr. Anderson** did not want to be required to include this service.

**Substitute Motion:** SEN. WATERMAN made a substitute motion that THE WORD SHALL BE REPLACED WITH MAY IN THE AMENDMENT.

**Discussion:**

SEN. CHRISTIAENS resisted the change and stated Deaconess Hospital would be the only hospital used.

SEN. LYNCH also resisted the motion. The idea behind the changes was to allow people easier access to care, this would require them to go to Deaconess.

CHAIRMAN SWYSGOOD favored the motion because under managed care, the acute went to Deaconess, and there was no rate structure to insure the costs did not get out of hand.

SEN. CHRISTIAENS commented the hospitals were willing to work with the department, and not charge more than Deaconess.

**Vote:** Motion carried 12-6 with Christiaens, Franklin, Jergeson, Lynch, Nelson, and Shea voting no.

**Motion:** SEN. WATERMAN moved that AMENDMENT SB053415.ASF EXHIBIT (fcs76a36) BE ADOPTED.

**Discussion:**

SEN. WATERMAN explained the amendments. Number one was not added by the subcommittee, and would need to be adopted.

Mr. Petesch advised the reference to the bill was the original bill. Mr. Petesch felt this needed to be adopted.

**Vote:** Motion carried unanimously.

**Motion/Vote:** SEN. KEENAN moved that AMENDMENT SB053416.ASF EXHIBIT (fcs76a37) BE ADOPTED. Motion carried unanimously.

**Motion/Vote:** SEN. WATERMAN moved that SB 534 DO PASS AS AMENDED. Motion carried 16-2 with Christiaens and Lynch voting no.

SEN. LYNCH explained this bill had a huge impact on the future, and he felt it was moving to fast. SEN. MAHLUM stated he had confidence in the subcommittee, and everyone who had been working on this bill.

**EXECUTIVE ACTION ON HB 260**

**Motion:** SEN. MAHLUM moved that HB 260 BE CONCURRED IN.

**Motion:** SEN. KEATING moved that AMENDMENT HB026008.AGP  
**EXHIBIT**(fcs76a38) BE ADOPTED.

**Discussion:**

**Mr. Petesch** explained the amendment flows the licenses tax payment through the bond account. This would provide the security for the School Bonds. The treasury would retain one years debt service on the bonds. The amendment provides an allocation to the Agriculture account, and percentages from other accounts are to be adjusted according. If **SB 220** passes, the funding for the water project would be effected by this bill.*{Tape : 5; Side : A; Approx. Time Counter : 0}*

**SEN. CHRISTIAENS** thought the school bond contingency fund was a fund within the trust. **Mr. Petesch** advised that was correct. Currently in the trust fund there is a severance tax bond account and the school contingency account. They retain one year's debt repayment. The amendment would hold licence taxes in the special revenue account for the same amount of money.

**SEN. JERGESON** advised if this amendment was adopted his amendments would not work.

**Substitute Motion:** SEN. JERGESON made a substitute motion that AMENDMENTS SB026009.AGP **EXHIBIT**(fcs76a39) BE ADOPTED.

**Discussion:**

**SEN. JERGESON** advised the amendment eliminated the coal company license tax, restores the 50% allocation to the trust, and restores two trusts within the trust. One trust would be for research and development while the other was for vision 2005 projects. **SEN. JERGESON** stated he belied the current proposal was unconstitutional, and the bill would be challenged in court. The case could be litigated over a lengthy period of time, and several needed programs would not be funded.

**SEN. NELSON** agreed with **SEN. JERGESON**.

**CHAIRMAN SWYSGOOD** did not support the amendment because it established a trust within a trust, and he felt the interest income would be impacted.

**Vote:** Motion failed 7-11 with CHRISTIAENS, Franklin, Jergeson, Lynch, Nelson, Shea, and Waterman voting aye.

The original amendment was voted on.

**Vote:** Motion carried 11-7 with Christiaens, Franklin, Lynch, Shea, Nelson, Waterman, and Jergeson voting no. {Tape : 5; Side : A; Approx. Time Counter : 5:35}

**Motion:** SEN. KEATING moved that AMENDMENT HB026011.AGP EXHIBIT(fcs76a40) BE ADOPTED.

**Discussion:**

SEN. JERGESON felt the amendment should be done, however this was a taxation bill and the Taxation Committee had not heard the bill.

CHAIRMAN SWYSGOOD advised the amendment establishes the tax be structured similar to the Coal Severance Tax.

**Vote:** Motion carried 13-5 with Christiaens, Franklin, Jergeson, Lynch, and Nelson voting no.

**Motion:** SEN. WATERMAN moved that AMENDMENT HB026010.AGP EXHIBIT(fcs76a41) BE ADOPTED.

**Discussion:**

SEN. WATERMAN advised the amendment changed the board structure.

CHAIRMAN SWYSGOOD reviewed what lines would be left. The program specialist was being removed.

**Vote:** Motion carried 17-1 with Lynch voting no.

**Motion:** SEN. NELSON moved that AMENDMENT HB026001.ACS EXHIBIT(fcs76a42) BE ADOPTED.

**Discussion:**

SEN. NELSON explained this brought the board in line with other boards.

**Vote:** Motion carried unanimously.

**Motion:** SEN. CRISMORE moved that HB 260 BE CONCURRED IN AS AMENDED.

**Discussion:**

**SEN. FRANKLIN** spoke against the bill for several reasons, and one in particular. The MSTA board was established similar to the proposed board, and it did not work. **SEN. FRANKLIN** felt the board should be a citizens review board.

**SEN. WATERMAN** asked why the credit was 100.1%. **SEN. MAHLUN** advised it made the numbers even out.

**SEN. TOEWS** felt peer review allowed people to control issues, and Montana needed some drastic changes. **SEN. TOEWS** felt the agriculture money would not work because nothing was changing the current system.

**Vote:** Motion carried 13-5 with Christiaens, Lynch, Franklin, Waterman, and Jergeson voting no.

**EXECUTIVE ACTION ON HB 660**

**Motion:** **SEN. BECK** moved that HB 660 BE CONCURRED IN.

**Motion:** **SEN. BECK** moved that AMENDMENT HB066002.ASH BE ADOPTED. The amendments were exhibit 22.

**Discussion:**

**SEN. BECK** advised this appropriated \$250,000.00 to cover the rifted employees.

**SEN. KEATING** asked if these employees were covered under a retraining program. **SEN. KEATING** wanted to know how long the insurance benefits lasted. **John McEwen**, State Personal Division, advised the insurance coverage would be three years.

**SEN. WATERMAN** asked if the department would pay the full cost for three years. **Mr. McEwen** thought that was correct. **Paula Stalin**, Department of Administration, advised there would be no coverage.

There was debate amongst the committee if the amendment was correct. **SEN. BECK** advised **REP. MENEHAN** requested the amendment.

**CHAIRMAN SWYSGOOD** resisted the amendment because he felt the department had enough money to cover this. There was considerable discussion about who said the Department of Public Health and Humans Services had excess money.

SEN. BECK asked for the committees support on the amendment.

Vote: Motion carried 14-4 with Franklin, Miller, Keating, and Nelson voting no.

Motion/Vote: SEN. BECK moved that HB 660 BE CONCURRED IN AS AMENDED. Motion carried 12-6 with Keating, Toews, Miller, Nelson, Mohl, and Keenan voting no.

SEN. BECK was assigned to carry the bill.

EXECUTIVE ACTION ON HB 389

Motion: SEN. KEATING moved that HB 389 BE CONCURRED IN.

Motion/Vote: SEN. CRISMORE moved a conceptual amendment THE FUNDING BE REMOVED IN THE BILL with THE FUNDING IN HB 2 STANDING. Motion carried unanimously.

Motion: SEN. KEATING moved that HB 389 BE CONCURRED IN AS AMENDED.

Substitute Motion/Vote: SEN. WATERMAN made a substitute motion that HB 389 BE TABLED. Substitute motion failed 6-12 with Christiaens, Crismore, Toews, Nelson, Miller, and Waterman voting aye.

Motion: SEN. KEATING moved that AMENDMENT HB038901.ARL **EXHIBIT**(fcs76a43) BE ADOPTED. Motion carried unanimously. This amendment superceded the previous amendment.

Motion/Vote: SEN. KEATING moved that HB 389 BE CONCURRED IN AS AMENDED. Motion carried 13-5 with Waterman, Miller, Toews, Crismore, and Miller voting no.

**ADJOURNMENT**

Adjournment: 6:00 P.M.

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SEN. CHUCK SWYSGOOD, Chairman

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SHANNON GLEASON, Secretary

CS/SG

**EXHIBIT** (fcs76aad)